



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Wyatt EXAMINER: Dixon
SERIAL NO.: 09/544,508 GROUP ART UNIT: 3629
FILING DATE: April 6, 2000 ATTY. DOCKET NO.: MCO-P-00-001
INVENTION: "A METHOD AND SYSTEM FOR PROVIDING BED AVAILABILITY
INFORMATION ON A COMPUTER NETWORK"

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APPELLANT'S APPEAL BRIEF TRANSMITTAL LETTER

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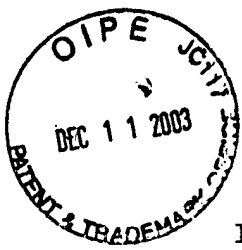
MADAM:

Appellant submits herewith, in triplicate, Appellant's Appeal Brief in support of the Notice of Appeal filed October 14, 2003. Appellant encloses a check for \$165.00 for submission of this Appeal Brief. Appellant authorizes the Patent Office to charge any fees that may be due and owing or to credit any overpayment to Deposit Account No. 50-0595. A duplicate copy of this sheet is enclosed for this purpose.

Respectfully submitted,

(Reg. No. 35,018)

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CERTIFICATE OF MAILING

I hereby certify that this **APPEAL BRIEF** with **APPENDIX CONTAINING CLAIMS 1-20, SUPPLEMENTAL APPENDIX CONTAINING EXHIBITS A, B, C and D** and check for \$165.00 are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313 on December 8, 2003.

A handwritten signature in black ink, appearing to read "Brian M. Mattson".

Brian M. Mattson (Reg. No. 35,018)

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APPELLANT'S APPEAL BRIEF

SIR:

This Appeal Brief is submitted in support of the Notice of Appeal filed on October 14, 2003. The Appeal was taken from the Final Rejection dated April 11, 2003.

I. REAL PARTY IN INTEREST

Medical Central Online is the real party in interest as the assignee of this application.

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellant or Appellant's legal representative which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

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III. STATUS OF CLAIMS

Claims 1-20 are pending in this patent application. A copy of the claims is appended hereto as the Appendix. Claims 1-20 were finally rejected by the Examiner in a Final Rejection dated April 11, 2003 and are hereby on appeal. The Final Rejection is appended hereto as Exhibit A of the Supplemental Appendix.

IV. STATUS OF AMENDMENTS

The Examiner considered the proposed amendments filed in response to the Final Rejection. However, the Examiner alleged that the proposed amendments do not place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Moreover, the Examiner refused to enter the proposed amendments submitted after final rejection in this patent application.

V. SUMMARY OF INVENTION

The present invention generally relates to a method and a system for providing bed availability information on, for example, a computer network. Further, the present invention relates to a method and a system for providing bed availability information on a computer network where a medical facility, such as, for example, a medical, health, extended care or geriatric care facility, may input information into a database regarding bed availability information of the particular facility.

Moreover, an individual requiring bed availability information may access the database and search the database for the bed availability information. (Page 1, lines 6-18)

A computer network 1 may be a computer network which may interconnect a plurality of computers 10-16. The computer network 1 may include a server computer 18 having a database 20 attached thereto. Further, the computer network 1 may be, for example, the internet wherein a plurality of remote computers are connected via a telephone network or other like network to each other. In addition, the computer network 10 may be an intranet wherein the plurality of computers 10-16 are connected via a network internal to an organization, such as a business and/or an institution. (Page 7, lines 5-25)

The database 20 may contain information input into the database relating to bed availability information of healthcare providers. Any healthcare facility having bed availability information may use any of the computers 10-16 connected via the computer network 1 to access the database 20. The healthcare facility may then enter the bed availability information into the database 20. A user of the database 20 desiring information concerning the availability of beds in a plurality of healthcare facilities could use any of the computers 10-16 to access the database 20 and to extract the information concerning

the availability of the beds of any of the healthcare facilities stored therein. The network 1, therefore, allows for real time updates and access to those updates regarding bed availability as a patient is checked in and subsequently checked out of the facility. (Page 7, lines 26-33 and page 8, lines 1-12)

Further, any of the computers 10-16 may be a wireless system whereby the computer network may be accessed from a remote location. For example, any of the computers 10-16 may be a Palm Pilot™ by 3Com, Inc. that may access the internet wirelessly. Further, any of the computers 10-16 may be a wireless telephone having access to the internet. (Page 8, lines 13-19)

The system 50 may include a healthcare facility 52 which may provide information 54 to the database 20 for a plurality of users 58 to download. The information 54 may include healthcare facility information 60, a quantity of beds 62 in the healthcare facility 52, types of beds 64 in the healthcare facility 52, a bed availability projection 66 in the healthcare facility 52 and whether a wait-list 68 is in effect in the healthcare facility 52. (Page 8, line 33 and page 9, lines 1-7)

The users 58 may have access to the database 20 and may retrieve the information 54 from the database 20. The users may include a hospital 70, an individual or a family 72 and/or physicians 74. (Page 10, lines 7-10) The user 58 may, for

example, request a room 76, request a bed type 78, transfer medical records 80 to the healthcare facility 52 and/or make an appointment 81 with the healthcare facility 52. (Page 10, lines 17-23)

The database 20 may be contained on a website or other graphical interface on the computer network that may provide electronic forms for the healthcare facility 52 to enter the information 54 into the database 20 or for the users 58 to obtain the information 54 from the database 20. Further, the healthcare facility 52 or the user 58 may have a website ID number and/or a password to maintain privacy and/or to change and save information input into the database 20 or taken from the database 20. The database 20 may be accessed via a single website or via a plurality of websites that are linked to the database 20. (Page 10, lines 26-33 and page 11, lines 1-5)

VI. ISSUES

1. Would Claims 1, 2, 4-9, 11-17, 19 and 20 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241)? See *Ohrn* (U.S. Patent No. 6,356,874) attached as Exhibit B of the Supplemental Appendix and *Stanis et al.* (U.S. Patent No. 4,135,241) attached as Exhibit C of the Supplemental Appendix.

2. Would Claims 3, 10 and 18 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241) and further in view of *Bruno et al.* (U.S. Patent No. 6,289,088)? See *Bruno et al.* (U.S. Patent No. 6,289,088) attached as Exhibit D of the Supplemental Appendix.

VII. GROUPING OF CLAIMS

Appellant argues for the patentability of independent Claims 1 and 14 separately and apart from one another. Appellant argues for the patentability of dependent Claims 2-13 and 15-20 separately and apart from the independent claims from which Claims 2-13 and 15-20 depend.

VIII. ARGUMENT

The invention as defined in independent Claim 1 requires a method for providing bed availability information to a user wherein the user identifies an available bed for a patient. The bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities. Claim 1 requires the method to have the steps of providing a computer network and providing a database connected to the

computer network. Additionally, Claim 1 requires a step of inputting bed availability information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds. Further, the bed availability information is input into the database and is accessible by the computer network. Still further, Claim 1 requires a step of providing a first access to the database for determining the bed availability information by the user of the database. Moreover, Claim 1 requires a step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition. Claims 2, 4-9 and 11-13 set forth additional steps of Appellant's method for providing bed availability information to a user.

Independent Claim 14 requires a system for storing and accessing bed availability information to a user wherein the bed availability includes information for a plurality of healthcare facilities. Each of the plurality of healthcare facilities has a plurality of beds and receives a patient if a bed is available. Additionally, Claim 14 requires a system having a computer network, a database associated with the computer network and means for inputting bed availability information of a plurality of healthcare facilities into the database. Further, Claim 14 requires means for accessing the bed availability information and retrieving the bed availability

information from the database via the computer network. Moreover, Claim 14 requires means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database. Claims 15-17, 19 and 20 set forth additional structural elements of Appellant's system for storing and accessing bed availability information to a user.

**A. THE CITED REFERENCES AND REJECTIONS
OF CLAIMS 1, 2, 4-9, 11-17, 19 AND 20**

Claims 1, 2, 4-9, 11-17, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241).

In the Final Rejection, the Examiner stated:

As per Claim 1, 14.

Ohrn ('874) discloses:

providing a network, see column 7, lines 60-66 and figure 1;

providing a database connected to the computer network, see figure 1;

inputting bed availability information for a plurality of healthcare facilities, wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network, see column 6, lines 6-45, column 7, lines 60-66 and column 10, lines 22-30;

providing a first access to the database for finding the bed availability information by a user of the database, see column 6, lines 6-45.

Ohrn ('874) further discloses searching a database based on user entered criteria for the bed availability information, see column 5, lines 37-63.

Ohrn ('874) does not specifically disclose entering individual medical condition of a patient.

Stanis et al. ('241) teaches entering medical information, see column 3, lines 14-25 and column 4, lines 23-36 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of *Ohrn* ('874) as taught by *Stanis et al.* ('241) for the benefit of accurate billing and records management.

(See Final Rejection, page 3 of Exhibit A of the Supplemental Appendix.)

Further, the Examiner stated:

As per Claim 2.

Ohrn ('874) further discloses providing the database on a network, see figure 1.

As per Claim 4.

Ohrn ('874) further discloses contacting one of the healthcare facilities after retrieving information about the healthcare facility, see column 10, lines 22-30 and column 5, lines 37-45.

As per Claim 5.

Ohrn ('874) further discloses providing a remote server storing the database, see figure 1.

As per Claim 6.

Ohrn ('874) further discloses providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability into the database via the second access, see column 5, lines 37-41, column 7, lines 44-50 and column 10, lines 22-30.

As per Claims 7 and 19.

Ohrn ('874) further discloses an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility, see column 5, lines 37-41, column 7, lines 44-50 and column 10, lines 22-30.

As per Claims 8 and 15.

Ohrn ('874) does not specifically disclose bed availability includes a quantity of beds.

Stanis et al. ('241) teaches a quantity of empty beds available, see column 7, line 43 - column 8, line 8 and column 3, lines 14-25 for the benefit of

accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of *Ohrn* ('874) as taught by *Stanis et al.* ('241) for the benefit accurate billing and records management.

As per Claims 9 and 16.

Ohrn ('874) does not specifically disclose bed availability includes types of beds available.

Stanis et al. ('241) teaches a types of beds, see column 7, line 43 - column 8, line 8 and column 3, lines 14-25 for the benefit of accurate billing and records management.

Therefore, it would be have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of *Ohrn* ('874) as taught by *Stanis et al.* ('241) for the benefit of accurate billing and records management.

As per Claim 11.

Ohrn ('874) further discloses searching the database for the bed availability information, see column, lines 37-63;

matching healthcare facility criteria with patient needs, see column 5, lines 37-41 and column 10, lines 22-30.

As per Claim 12.

Ohrn ('874) further discloses searching a database based on user entered criteria for the bed availability information, see column 5, lines 37-63.

Orhn ('874) does not specifically disclose entering individual medical condition of a patient.

Stanis et al. ('241) teaches entering medical information, see column 3, lines 25 and column 4, lines 23-36 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of *Ohrn* ('874) as taught by *Stanis et al.* ('241) for the benefit of accurate billing and records management.

As per Claims 13 and 20.

Orhn ('874) further discloses a means for searching, see column 37-63.

As per Claim 17.

Ohrn ('874) further discloses the bed availability information includes a projection of expected availability of beds at a facility in a specified time frame, see column 5, lines 37-63.

(See Final Rejection, pages 4 and 5 of Exhibit A of the Supplemental Appendix.)

B. OHRN OR STANIS ET AL., TAKEN SINGLY OR IN COMBINATION, DO NOT TEACH OR SUGGEST THE INVENTION DEFINED IN CLAIMS 1, 2, 4-9, 11-17, 19 AND 20, AND IT WOULD NOT HAVE BEEN OBVIOUS TO COMBINE THEM BY ONE HAVING ORDINARY SKILL IN THE ART AT THE TIME OF THE INVENTION

With respect to the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.*, Appellant respectfully submits that the claims distinctly define the present invention from *Ohrn* and *Stanis et al.*, taken singly or in combination, for the reasons that follow.

Ohrn teaches "a method for ordering services, especially for booking hotel rooms and travel at home and abroad as well as medical services, wherein the ordering is performed via a user terminal connected to a central data processing device". (See *Ohrn*, col. 1, lines 5-9. Further, *Ohrn* teaches "the central data processing device comprises a data storage device and is also connected to a service location terminal. (See *Ohrn*, col. 1, lines 9-11)

Stanis et al. teach a system "to store temporary information

pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed". (See *Stanis et al.*, col. 7, lines 48-51.) Moreover, *Stanis et al.* teach "a search is made for all bed numbers in locations containing a specified nursing station number and control characters indicating a need for special attention or service." (See *Stanis et al.*, col. 21, lines 25-28.)

Claim 1 requires a step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition. The Examiner admits that *Ohrn* fails to specifically disclose entering an individual medical condition of a patient. Moreover, the Examiner alleges *Stanis et al.* teach entering medical information for the benefit of accurate billing and records management. On the contrary, *Stanis et al.* merely teach that "the system is capable of transmitting and receiving all of the communications, orders, and requests normally handled in a hospital and of automatically compiling and computing all necessary data relating to patient charges and the status of the beds in the hospital, as well as providing a running inventory control" (See *Stanis et al.*, column 4, lines 23-29.)

Clearly, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of

inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 1. Nowhere does *Stanis et al.* teach or suggest a method having a step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 1. Furthermore, *Stanis et al.* merely teach that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed". (See *Stanis et al.*, column 7, lines 47-51.) Therefore, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 1.

Claim 14 requires a system having means for inputting bed availability information of a plurality of healthcare facilities into the database. Moreover, Claim 14 requires means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database.

Neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a system having means for

inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 14. *Ohrn* merely teaches that "if the orders are made within the framework of a public health system, the user terminals can be located in doctor's surgeries and the like and used by a doctor in private practice for ordering consultations with specialists, admissions to hospital and operations, etc." (See *Ohrn*, column 10, lines 25-30.) *Stanis et al.* merely teach that "bed information search logic for compiling listings of the information stored in this area, such as lists by nursing station of beds which need attention, lists by nursing station of beds which are in a particular status (available, occupied etc.), lists of patients admitted on a particular day, and the like." (See *Stanis et al.*, column 3, lines 20-25.) Thus, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a system for storing and accessing bed availability information to a user having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 14.

Moreover, a person of ordinary skill in the art would never have been motivated to combine *Ohrn* with *Stanis et al.* in the manner suggested by the Patent Office in formulating the

rejection under 35 U.S.C. §103(a). Applicant submits that the Patent Office is merely "piece-mealing" references together, providing various teachings and positively defined limitations of Applicant's method and system for providing bed availability information to deprecate the claimed invention. Of course, hindsight reconstruction of Applicant's invention is impermissible. Applicant respectfully submits that Claims 1 and 14 distinctly define the present invention from *Ohrn* and/or *Stanis et al.*, taken singly or in combination.

With the analysis of the deficiencies of *Ohrn* and *Stanis et al.* in mind, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ohrn* and *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

Appellant further submits that one having ordinary skill in the art at the time of Appellant's invention would never have

been motivated to modify *Ohrn* with *Stanis et al.* in the manner suggested by the Examiner in formulating the rejections under 35 U.S.C. §103(a).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1545, 220 USPQ 193 (Fed. Cir. 1983).

Appellant submits that the Examiner has merely located components of Appellant's claimed invention. However, that the art disclosed components of Appellant's claimed invention, either separately or used in other combinations, is insufficient. A teaching, suggestion, or incentive must exist to make the combination made by Appellant. *Interconnect Planning Corp. v. Feil*, 774 F. 2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

Even assuming that one having ordinary skill in the art could somehow have combined *Ohrn* and *Stanis et al.* as set forth by the Examiner, the resultant combination still lacks the

critical steps and elements positively recited in Claims 1 and 14, respectively.

In view of the foregoing, Appellant submits that the rejection of Claims 1 and 14 under 35 U.S.C. §103(a) is improper.

Dependent Claim 2 further requires the step of providing the database on the network wherein access to the database is via the network. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 2. Further, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of providing the database on the network wherein access to the database is via the network as required by Claim 2. Contrary to the assertions of the Examiner, *Ohrn* merely teaches that "the user terminal is connected via telecommunication centre I with a linking device in a central data processing device." Moreover, *Ohrn* teaches that "the linking device causes a connection to be established between the user terminal and a service location terminal at the service location via telecommunication network I and via telecommunication centre I." Therefore, the invention defined in Claim 2 would not have been

obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 2 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 4 further requires the step of contacting one of the healthcare facilities after retrieving information about the healthcare facility. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 4. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of contacting one of the healthcare facilities after retrieving information about the healthcare facility as required by Claim 4. Contrary to the assertions of the Examiner, *Ohrn* merely teaches that "the user terminals can be located in doctor's surgeries and the like and used by a doctor in private practice for ordering consultations with specialists, admissions to hospital and operations, ECT." Therefore, the invention defined in Claim 4 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 4 under 35 U.S.C. §103(a) in

view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 5 further requires the step of providing a remote server and storing the database on the remote server. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 5. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of providing a remote server and storing the database on the remote server as required by Claim 5. Therefore, the invention defined in Claim 5 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 5 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 6 further requires the step of providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability information into the database via the second access. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the

user with the medical condition as required by Claim 6. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability information into the database via the second access as required by Claim 6. Therefore, the invention defined in Claim 6 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Ohrn* actually teaches away from a method having a step of providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability information into the database via the second access because the telemarketing system teaches that the database is automatically updated from a local data processing device at the service location. Contrary to the assertion of the Examiner, *Ohrn* merely teaches that "when the order is confirmed, the system proceeds to the next order, while the data base in the central data processing device or the telemarketing system is automatically updated from a local data processing device at the service location, thus ensuring that the data base is updated at all times with correct service information." Thus, *Ohrn* clearly teaches away from a method having a step of

providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability information into the database via the second access as specifically defined in Claim 6. Accordingly, the rejection of Claim 6 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 7 further requires a method wherein an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 7. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method wherein an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility as required by Claim 7. Therefore, the invention defined in Claim 7 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Ohrn* actually teaches away from a method wherein an individual healthcare facility accesses the database to input

the bed availability information for the individual healthcare facility because the telemarketing system teaches that the database is automatically updated from a local data processing device at the service location. Contrary to the assertion of the Examiner, *Ohrn* merely teaches that "when the order is confirmed, the system proceeds to the next order, while the data base in the central data processing device or the telemarketing system is automatically updated from a local data processing device at the service location, thus ensuring that the data base is updated at all times with correct service information." Thus, *Ohrn* clearly teaches away from a method wherein an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility as specifically defined in Claim 7. Accordingly, the rejection of Claim 7 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 8 further requires a method wherein the bed availability information includes a quantity of empty beds available. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 8. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method

wherein the bed availability information includes a quantity of empty beds available as required by Claim 8. The Examiner admits that *Ohrn* does not specifically disclose bed availability which includes a quantity of beds. Further, *Stanis et al.* merely teach that "the system includes bed information search logic for compiling listings of the information stored in this area, such as lists by nursing station of beds which need attention, lists by nursing station of beds which need attention, lists by nursing station of beds which are in a particular status (available, occupied, etc.), lists of patients admitted on a particular day, and the like." Moreover, *Stanis et al.* teach that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed." Therefore, the invention defined in Claim 8 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 8 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 9 further requires a method wherein the bed availability information includes types of empty beds available. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the steps of inputting a medical condition of the user to determine the bed

availability for the user with the medical condition as required by Claim 9. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method wherein the bed availability information includes types of empty beds available as required by Claim 9. Therefore, the invention defined in Claim 9 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Stanis et al.* actually teach away from a method wherein the bed availability information includes types of empty beds available because the data handling system only teaches a system which provides bed status information. Contrary to the assertion of the Examiner, *Stanis et al.* merely teach that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed." Furthermore, *Stanis et al.* teach that "a three letter code is inserted to indicate whether a bed is occupied (O.P.), clean (CAN), ready (RAY) or whatever." Thus, *Stanis et al.* clearly teach away from a method wherein the bed availability information includes types of empty beds available as specifically defined in Claim 9. Accordingly, the rejection of Claim 9 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 11 further requires the steps of searching the database for the bed availability information and matching healthcare facility criteria with patient needs. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 11. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the steps of searching the database for the bed availability information and matching healthcare facility criteria with patient needs as required by Claim 11. Contrary to the assertions of the Examiner, *Ohrn* merely teaches that "the data processing device will be connected to a voice network interface which reads out the various offers, and the customer now selects the desired offer by pressing a key." Moreover, *Ohrn* merely teaches that "the voice network interface will then continue to read out alternatives according to, for example, geographical and price-associated criteria and the customer's specification of the service offer is performed by pressing a key for the criterion concerned." Therefore, the invention defined in Claim 11 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 11 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 12 further requires the steps of entering individual information related to a medical condition of a patient and searching the database based on the individual information for the bed availability information. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 12. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the steps of entering individual information related to a medical condition of a patient and searching the database based on the individual information for the bed availability information as required by Claim 12. The Examiner admits *Ohrn* does not specifically disclose entering individual medical condition of a patient. Therefore, the invention defined in Claim 12 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Stanis et al.* actually teach away from a method having the steps of entering individual information related to a medical condition of a patient and searching the database based on the individual information for the bed availability information because the data handling system only teaches a system which provides information relating to patient charges

and bed status. Contrary to the assertion of the Examiner, *Stanis et al.* merely teach that "the system 3700 is capable of transmitting and receiving all of the communications, orders, and requests normally handled in a hospital and of automatically compiling and computing all necessary data relating to patient charges and the status of the beds in the hospital, as well as providing a running inventory control." Furthermore, *Stanis et al.* teach that "virtually all input messages are made by selecting records in machine readable code from a prepared supply thereof containing all of the messages and service requests normally required in a hospital." Thus, *Stanis et al.* clearly teach away from a method having the steps of entering individual information related to a medical condition of a patient and searching the database based on the individual information for the bed availability information as specifically defined in Claim 12. Accordingly, the rejection of Claim 12 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 13 further requires the step of providing a search engine for searching the database. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 13. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in

combination, teach or suggest a method having the step of providing a search engine for searching the database as required by Claim 13. Therefore, the invention defined in Claim 13 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Ohrn* actually teaches away from a method having the step of providing a search engine for searching the database because the telemarketing system only teaches that the data processing device reads out the various offers to the customer. Contrary to the assertions of the Examiner, *Ohrn* merely teaches that "the data processing device will be connected to a voice network interface which reads out the various offers, and the customer now selects the desired offer by pressing a key." Further, *Ohrn* merely teaches that "the voice network interface will then continue to read out alternatives according to, for example, geographical and price-associated criteria and the customer's specification of the service offer is performed by pressing a key for the criterion concerned." Moreover, *Ohrn* teaches that "the customer then selects a specific service offer and enters the code for the desired hotel." Thus, *Ohrn* clearly teaches away from a method having the step of providing a search engine for searching the database as specifically defined in Claim 13. Accordingly, the rejection of Claim 13 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 15 further requires the bed availability information to include a quantity of beds available. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 15. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system wherein the bed availability information includes a quantity of beds available as required by Claim 15. The Examiner admits that *Ohrn* does not specifically disclose bed availability which includes a quantity of beds. Further, *Stanis et al.* merely teaches that "the system includes bed information search logic for compiling listings of the information stored in this area, such as lists by nursing station of beds which need attention, lists by nursing station of beds which need attention, lists by nursing station of beds which are in a particular status (available, occupied, etc.), lists of patients admitted on a particular day, and the like." Moreover, *Stanis et al.* teach that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed." Therefore, the invention defined in Claim 15 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and

Stanis et al. Accordingly, the rejection of Claim 15 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 16 further requires the bed availability information to include types of beds available. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 16. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system wherein the bed availability information includes types of beds available as required by Claim 16. The Examiner admits *Ohrn* does not specifically disclose bed availability which includes types of beds available. Therefore, the invention defined in Claim 16 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Stanis et al.* actually teach away from a system wherein the bed availability information includes types of empty beds available because the data handling system only teaches a system which provides bed status information. Contrary to the assertion of the Examiner, *Stanis et al.* merely teaches that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied,

etc.) and information as to who is the current occupant of the bed." Furthermore, *Stanis et al.* teach that "a three letter code is inserted to indicate whether a bed is occupied (O.P.), clean (CAN), ready (RAY) or whatever." Thus, *Stanis et al.* clearly teach away from a system wherein the bed availability information includes types of empty beds available as specifically defined in Claim 16. Accordingly, the rejection of Claim 16 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 17 further requires the bed availability information to include a projection of expected availability of beds at a facility in a specified time frame. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 17. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system wherein the bed availability information includes a projection of expected availability of beds at a facility in a specified time frame as required by Claim 17. Therefore, the invention defined in Claim 17 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Ohrn* actually teaches away from a system wherein the bed availability information includes a projection of expected availability of beds at a facility in a specified time frame because the telemarketing system only teaches that the service offers having vacant rooms will read out. Contrary to the assertion of the Examiner, *Ohrn* merely teaches that "after the specification criteria have been read out, i.e. the customer has established place, date and price class, the voice network interface will now read out the relevant service offers, i.e. those hotels which have vacant rooms." Thus, *Ohrn* clearly teaches away from a system wherein the bed availability information includes a projection of expected availability of beds at a facility in a specified time frame as specifically defined in Claim 17. Accordingly, the rejection of Claim 17 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 19 further requires a means for accessing the database wherein an individual healthcare facility enters the bed availability into the database. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 19. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a

system having a means for accessing the database wherein an individual healthcare facility enters the bed availability into the database as required by Claim 19. Therefore, the invention defined in Claim 19 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.*, taken singly or in combination.

Moreover, *Ohrn* actually teaches away from a system having a means for accessing the database wherein an individual healthcare facility enters the bed availability into the database because the telemarketing system teaches that the database is automatically updated from a local data processing device at the service location. Contrary to the assertion of the Examiner, *Ohrn* merely teaches that "when the order is confirmed, the system proceeds to the next order, while the data base in the central data processing device or the telemarketing system is automatically updated from a local data processing device at the service location, thus ensuring that the data base is updated at all times with correct service information." Thus, *Ohrn* clearly teaches away from a system having a means for accessing the database wherein an individual healthcare facility enters the bed availability into the database as specifically defined in Claim 19. Accordingly, the rejection of Claim 19 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

Dependent Claim 20 further requires a means for searching the database for the bed availability information of healthcare facilities. Nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 20. Additionally, nowhere do *Ohrn* and *Stanis et al.*, taken singly or in combination, teach or suggest a system having a means for searching the database for the bed availability information of healthcare facilities as required by Claim 20. Therefore, the invention defined in Claim 20 would not have been obvious to one of ordinary skill in the art at the time of Appellant's invention in view of *Ohrn* and *Stanis et al.* Accordingly, the rejection of Claim 20 under 35 U.S.C. §103(a) in view of *Ohrn* and *Stanis et al.* is improper.

In view of the forgoing, the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) is improper.

**C. THE CITED REFERENCES AND REJECTION
OF CLAIMS 3, 10 and 18**

Claims 3, 10 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241) and further in view of *Bruno et al.* (U.S. Patent No. 6,289,088).

In the Final Rejection, the Examiner stated:

Contrary to applicant's characterization of the reference though *Ohrn*'s examples are to booking hotel beds *Ohrn* anticipates the healthcare use of his system for use in Hospitals, which would naturally contain hospital beds, in column 10, lines 22-30 and use in a larger network system, see column 7, lines 60-66

Though *Ohrn* does not disclose the Internet, the natural evolution of technology would cause a progression from the network of *Ohrn*, which could be a private network, LAN or WAN, to the Internet, which is simply a public WAN. *Bruno et al.* is used to illustrate that the internet is well know network.

(See Final Rejection, page 2, section 2 of Exhibit A of the Supplemental Appendix.)

Further, the Examiner stated:

As per Claim 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Bruno et al. ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive alternate network as taught by *Bruno et al.* ('088) in the invention of *Ohrn* ('874).

As per Claim 10.

Ohrn ('874) further discloses an online form for accessing the database and inputting information, see figure 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Bruno et al. ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive

alternate network as taught by *Bruno et al.* ('088) in the invention of *Ohrn* ('874).

As per Claims 10 and 18.

Ohrn ('874) further discloses an online form for accessing the database and inputting information, see figure 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Bruno et al. ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive alternate network as taught by *Bruno et al.* ('088) in the invention of *Ohrn* ('874).

(See Final Rejection, pages 5 and 6 of Exhibit A of the Supplemental Appendix.)

D. OHRN, STANIS ET AL., OR BRUNO, JR. ET AL., TAKEN SINGLY OR IN COMBINATION, DO NOT TEACH OR SUGGEST THE INVENTION DEFINED IN CLAIMS 3, 10 AND 18, AND IT WOULD NOT HAVE BEEN OBVIOUS TO COMBINE THEM BY ONE OF ORDINARY SKILL IN THE ART AT THE TIME OF THE INVENTION

Claims 3, 10 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.* and further in view of *Bruno et al.* Appellant respectfully submits that Claims 3, 10 and 18 distinctly define the present invention from *Ohrn*, *Stanis et al.* or *Bruno et al.*, taken singly or in combination, for the reasons that follow. Further, this rejection is respectfully traversed in view of the arguments set forth above with respect to Claims 1 and 14 and for the reasons set forth below.

Dependent Claim 3 of the present invention requires the

network to be the internet with the steps of independent Claim 1.

Dependent Claim 10 of the present invention requires a step of providing an internet-enabled form on a website for accessing the remote database and inputting information into the database with the steps of independent Claim 1.

Dependent Claim 18 of the present invention requires a remote server wherein the database is contained on the remote server and a website providing access to the database with the elements of independent Claim 14.

With respect to assertion of the Examiner that the natural evolution of the technology would cause a progression from the network of *Ohrn* to the Internet, Appellant submits that the evidence of record fails to support the assertion. Additionally, the Examiner admits that *Ohrn* does not specifically disclose the network is the internet. Further, Appellant asserts that *Bruno et al.* fails to illustrate that the Internet is a well known network. Furthermore, Appellant submits that the assertion is an improper basis for formulating a rejection under 35 U.S.C. §103.

Bruno et al. fail to teach or suggest a method for providing bed availability information to a user having the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claims 3 and 10. Further, *Bruno et al.* fail to teach or

suggest a method for providing bed availability information to a user wherein the network is the internet as required by Claim 3. Moreover, *Bruno et al.* fail to teach or suggest a method for providing bed availability information to a user having the step of providing an internet-enabled form on a website for accessing the remote database and inputting information into the database as required by Claim 10.

Moreover, none of *Ohrn, Stanis et al.*, or *Bruno et al.*, taken singly or in combination, teach the elements of Claims 3 or 10. More specifically, none of the references, taken singly or in combination, teach or suggest a method having the steps of providing a computer network wherein the network is the internet and inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 3. Additionally, none of the references teach a method having the steps of inputting a medical condition of the user to determine the bed availability for the user with the medical condition, providing an internet-enabled form on a website for accessing the remote database and inputting information into the database as required by Claim 10.

Bruno et al. fail to teach or suggest a system for storing and accessing bed availability information to a user having means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 18.

Further, *Bruno et al.* fail to teach or suggest a system for storing and accessing bed availability information to a user having a remote server wherein the database is contained on the remote server and a website which provides access to the database as required by Claim 18.

Moreover, none of *Ohrn, Stanis et al.*, or *Bruno et al.*, taken singly or in combination, teach or suggest the elements of Claim 18. More specifically, none of the references, taken singly or in combination, teach or suggest a system having means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database, a remote server wherein the database is contained on the remote server and website providing access to the database as required by Claim 18.

Appellant submits that the Examiner has merely located components of Appellant's claimed invention. However, that the art disclosed components of Appellant's claimed invention, either separately or used in other combinations, is insufficient. A teaching, suggestion, or incentive must exist to make the combination made by Appellant. *Interconnect Planning Corp. v. Feil*, 774 F. 2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988). No such teaching, suggestion or incentive exists in *Ohrn, Stanis et al.* or *Bruno et al.* to provide the features set forth in Appellant's invention. Therefore, one of ordinary skill in the art would not have been motivated at the

time of Appellant's invention to combine *Ohrn*, and *Stanis et al.* with *Bruno et al.*

Still further, Appellant submits that the Examiner is merely "piece-mealing" references together providing various teachings and positively defined steps and novel elements of Appellant's method and system, respectively, to deprecate the claimed invention. Of course, hindsight reconstruction of Appellant's invention is impermissible. Since no suggestion exists to combine *Ohrn*, *Stanis et al.* with *Bruno et al.*, the Examiner cannot arbitrarily do so to reject the claims. Instead, a reason is required why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975).

With the analysis of the deficiencies of *Ohrn*, *Stanis et al.* and *Bruno et al.* in mind, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ohrn* and *Stanis et al.* with *Bruno et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F. 2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1545, 220 USPQ 193 (Fed. Cir. 1983).

The court in *In re McLaughlin* stated "[T]here is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art." *In re McLaughlin*, 170 USPQ 209 (CCPA 1971).

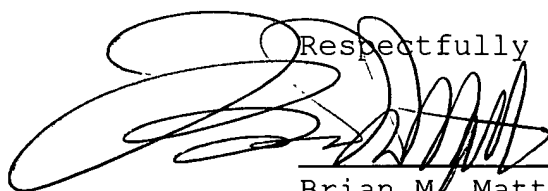
In considering obviousness, the critical inquiry is whether something in the art as a whole suggests the desirability, and thus the obviousness, of making a combination. *In re Newell*, 891 F.2d 899, 901-02, 13 USPQ 2d 1248, 1250 (Fed. Cir. 1987).

Since the Examiner has failed to establish a *prima facie* case of obviousness in combining *Ohrn* and *Stanis et al.* with *Bruno et al.*, the rejection of Claims 3, 10 and 18 under 35 U.S.C. §103(a) is improper.

CONCLUSION

For the foregoing reasons, Appellant respectfully submits

that the rejections of Claims 1-20 are erroneous as a matter of law and fact and respectfully requests the Board to reverse the rejections.

 Respectfully submitted,
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IX. TABLE OF CONTENTS

1) APPENDIX: Claims 1-20

2) SUPPLEMENTAL APPENDIX

EXHIBIT A: Final Rejection

EXHIBIT B: *Ohrn* (U.S. Patent No. 6,356,874)

EXHIBIT C: *Stanis et al.* (U.S. Patent No. 4,135,241)

EXHIBIT D: *Bruno et al.* (U.S. Patent No. 6,289,088)

APPENDIX: Claims 1-20

1. A method for providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities, the method comprising the steps of:

providing a computer network;

providing a database connected to the computer network;

inputting bed availability information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network;

providing a first access to the database for determining the bed availability information by the user of the database; and

inputting a medical condition of the user to determine the bed availability for the user with the medical condition.

2. The method of Claim 1 further comprising the step of:

providing the database on the network wherein access to the database is via the network.

3. The method of Claim 1 wherein the network is the internet.

4. The method of Claim 1 further comprising the step of:

contacting one of the healthcare facilities after retrieving information about the healthcare facility.

5. The method of Claim 1 further comprising the steps of:

providing a remote server; and

storing the database on the remote server.

6. The method of Claim 1 further comprising the step of:

providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability information into the database via the second access.

7. The method of Claim 1 wherein an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility.

8. The method of Claim 1 wherein the bed availability information includes a quantity of empty beds available.

9. The method of Claim 1 wherein the bed availability information includes types of empty beds available.

10. The method of Claim 1 further comprising the step of:

providing an internet-enabled form on a website for accessing the remote database and inputting information into the database.

11. The method of Claim 1 further comprising the steps of:

searching the database for the bed availability information;

and

matching healthcare facility criteria with patient needs.

12. The method of Claim 1 further comprising the steps of:

entering individual information related to a medical condition

of a patient; and

searching the database based on the individual information for the bed availability information.

13. The method of Claim 1 further comprising the step of:

providing a search engine for searching the database.

14. A system for storing and accessing bed availability information to a user wherein the bed availability includes information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities has a plurality of beds and receives a patient if a bed is available, the system comprising:

a computer network;

a database associated with the computer network;

means for inputting bed availability information of a plurality of healthcare facilities into the database;

means for accessing the bed availability information and retrieving the bed availability information from the database via the computer network; and

means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database.

15. The system of Claim 14 wherein the bed availability information includes a quantity of beds available.

16. The system of Claim 14 wherein the bed availability information includes types of beds available.

17. The system of Claim 14 wherein the bed availability

information includes a projection of expected availability of beds at a facility in a specified time frame.

18. The system of Claim 14 further comprising:

a remote server wherein the database is contained on the remote server; and

a website providing access to the database.

19. The system of Claim 14 further comprising:

means for accessing the database wherein an individual healthcare facility enters the bed availability into the database.

20. The system of Claim 14 further comprising:

means for searching the database for the bed availability information of healthcare facilities.

SUPPLEMENTAL
APPENDIX



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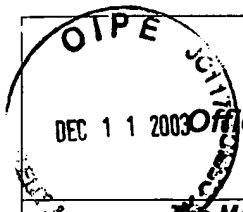
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
DIXON, THOMAS A	
ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

09/544,508

Applicant(s)

WYATT, PHIL

Examiner

Thomas A. Dixon

Art Unit

3629

THE MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments / Arguments

1. The arguments have been considered, and are convincing, however, Stanis teaches the claimed elements and the rejections appear below.
2. The rejections and objections of the previous action are withdrawn in view of applicant's amendments.

Contrary to applicant's characterization of the reference though Ohrn's examples are to booking hotel beds Ohrn anticipates the healthcare use of his system for use in Hospitals, which would naturally contain hospital beds, in column 10, lines 22-30 and use in a larger network system, see column 7, lines 60-66.

Though Ohrn does not disclose the Internet, the natural evolution of technology would cause a progression from the network of Ohrn, which could be a private network, LAN or WAN, to the Internet, which is simply a public WAN. Bruno et al is used to illustrate that the Internet is a well known network.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-8, 11, 12-16, 19-20 are rejected under 35 U.S.C. 103(a) as being anticipated by Ohrn (6,356,874) in view of Stanis et al ('4,135,241).

As per Claim 1, 14.

Ohrn ('874) discloses:

providing a network, see column 7, lines 60-66 and figure 1;

providing a database connected to the computer network, see figure 1;

inputting bed availability information for a plurality of healthcare facilities, wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network, see column 6, lines 6-45, column 7, lines 60-66 and column 10, lines 22-30;

providing a first access to the database for finding the bed availability information by a user of the database, see column 6, lines 6-45.

Ohrn ('874) further discloses searching a database based on user entered criteria for the bed availability information, see column 5, lines 37-63.

Ohrn ('874) does not specifically disclose entering individual medical condition of a patient.

Stanis et al ('241) teaches entering medical information, see column 3, lines 14-25 and column 4, lines 23-36 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of Ohrn ('874) as taught by Stanis et al ('241) for the benefit of accurate billing and records management.

As per Claim 2.

Ohrn ('874) further discloses providing the database on a network, see figure 1.

As per Claim 4.

Ohrn ('874) further discloses contacting one of the healthcare facilities after retrieving information about the healthcare facility, see column 10, lines 22-30 and column 5, lines 37-45.

As per Claim 5.

Ohrn ('874) further discloses providing a remote server storing the database, see figure 1.

As per Claim 6.

Ohrn ('874) further discloses providing a second access to the database wherein an extended care or a healthcare facility having beds enters the bed availability into the database via the second access, see column 5, lines 37-41, column 7, lines 44-50 and column 10, lines 22-30.

As per Claim 7, 19.

Ohrn ('874) further discloses an individual healthcare facility accesses the database to input the bed availability information for the individual healthcare facility, see column 5, lines 37-41, column 7, lines 44-50 and column 10, lines 22-30.

As per Claim 8, 15.

Ohrn ('874) does not specifically disclose bed availability includes a quantity of beds.

Stanis et al ('241) teaches a quantity of empty beds available, see column 7, line 43 – column 8, line 8 and column 3, lines 14-25 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of Ohrn ('874) as taught by Stanis et al ('241) for the benefit of accurate billing and records management.

As per Claim 9, 16.

Ohrn ('874) does not specifically disclose bed availability includes types of beds available.

Stanis et al ('241) teaches a types of beds, see column 7, line 43 – column 8, line 8 and column 3, lines 14-25 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of Ohrn ('874) as taught by Stanis et al ('241) for the benefit of accurate billing and records management.

Art Unit: 3629

As per Claim 11.

Ohrn ('874) further discloses searching the database for the bed availability information, see column 5, lines 37-63;

matching healthcare facility criteria with patient needs, see column 5, lines 37-41 and column 10, lines 22-30.

As per Claim 12.

Ohrn ('874) further discloses searching a database based on user entered criteria for the bed availability information, see column 5, lines 37-63.

Ohrn ('874) does not specifically disclose entering individual medical condition of a patient.

Stanis et al ('241) teaches entering medical information, see column 3, lines 14-25 and column 4, lines 23-36 for the benefit of accurate billing and records management.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a quantity of beds available in the invention of Ohrn ('874) as taught by Stanis et al ('241) for the benefit of accurate billing and records management.

As per Claim 13, 20.

Ohrn ('874) further discloses a means for searching, see column 37-63.

As per Claim 17.

Ohrn ('874) further discloses the bed availability information includes a projection of expected availability of beds at a facility in a specified time frame, see column 5, lines 37-63.

5. Claims 3, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohrn (6,356,874) in view of Stanis et al ('241) further in view of Bruno et al (6,289,088).

As per Claim 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Bruno et al ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive alternate network as taught by Bruno et al ('088) in the invention of Ohrn ('874).

As per Claim 10.

Ohrn ('874) further discloses an online form for accessing the database and inputting information, see figure 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Art Unit: 3629

Bruno et al ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive alternate network as taught by Bruno et al ('088) in the invention of Ohrn ('874).

6. Claims 10, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohrn (6,356,874) in view of Stanis et al ('241) further in view of Bruno et al (6,289,088).

As per Claim 10, 18.

Ohrn ('874) further discloses an online form for accessing the database and inputting information, see figure 3.

Ohrn ('874) does not specifically disclose the network is the internet.

Bruno et al ('088) teaches use of the internet as a less expensive alternative to long distance service, see column 5, lines 34-56.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the internet as a less expensive alternate network as taught by Bruno et al ('088) in the invention of Ohrn ('874).